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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/031,530 | 06/18/2002 | Guido Krupp | P-UX 5156 | 6195 |
| 23601 | 7590 | 12/15/2004 | EXAMINER | |
| CAMPBELL & FLORES LLP 4370 LA JOLLA VILLAGE DRIVE 7TH FLOOR SAN DIEGO, CA 92122 | | | WILDER, CYNTHIA B | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1637 | |

DATE MAILED: 12/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------|--------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/031,530 | KRUPP ET AL. | |
| | Examiner | Art Unit | |
| | Cynthia B. Wilder, Ph.D. | 1637 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 September 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 42-99 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 42-99 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 42-99 in part, as they relate to the sequences of SEQ ID NO: 1, 2 and 5, drawn to a method and kit for species-specific detection.

Group II, claim(s) 42-99, in part, as they relate to the sequences of SEQ ID NOS: 1, 2 and 6, drawn to a method and kit for species-specific detection.

Group III, claim(s) 42-99, in part, as they relate to the sequences of SEQ ID NOS: 1, 2 and 7, drawn to a method and kit for species-specific detection.

Group IV, claim(s) 42-99, in part, as they relate to the sequences of SEQ ID NOS: 1, 2 and 8, drawn to a method and kit for species-specific detection.

Group V, claim(s) 42-99, in part, as they relate to the sequences of SEQ ID NOS: 1, 2 and 9, drawn to a method and kit for species-specific detection.

Group VI, claim(s) 42-99, in part, as they relate to the sequences of SEQ ID NOS: 1, 2 and 10, drawn to a method and kit for species-specific detection.

Group VII, claim(s) 42-99, in part, as they relate to the sequences of SEQ ID NOS: 1, 2 and 11, drawn to a method and kit for species-specific detection.

Group VIII, claim(s) 42-99, in part, as they relate to the sequences of SEQ ID NOS: 3, 4 and 5, drawn to a method and kit for species-specific detection.

Group IX, claim(s) 42-99, in part, as they relate to the sequences of SEQ ID NOS: 3, 4 and 6, drawn to a method and kit for species-specific detection.

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Group X, claim(s) 42-99, in part, as they relate to the sequences of SEQ ID NOS: 3, 4 and 7 drawn to a method and kit for species-specific detection.

Group XI, claim(s) 42-99, in part, as they relate to the sequences of SEQ ID NOS: 3, 4 and 8, drawn to a method and kit for species-specific detection.

Group XII, claim(s) 42-99, in part, as they relate to the sequences of SEQ ID NOS: 3, 4 and 9, drawn to a method and kit for species-specific detection.

Group XIII, claim(s) 42-99, in part, as they relate to the sequences of SEQ ID NOS: 3, 4 and 10 drawn to a method and kit for species-specific detection.

Group XIV, Claims (s) 42-49 in part, as they relate to the sequences of SEQ ID NOS: 3, 4, and 11, drawn to a method and kit for species-specific detection.

2. The inventions listed as Groups I-XIV do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: The invention I-XIV contain sequences that do not contain a corresponding special technical feature. The sequences are not only structurally and chemically distinct, but also the sequences hybridize at different areas of rRNA regions. Accordingly, a restriction of the different sequences of SEQ ID NOS 1-11 as recited above applies. Applicant must specifically identify each of the corresponding SEQ ID NO: X or SEQ ID NO: Y for the sequence elected along with the corresponding claims.

Applicant is advised that examination will be restricted to only the elected SEQ ID NO: and should not to be construed as a species election. Non-elected sequences in multiple sequence claims will be withdrawn from prosecution.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cynthia B. Wilder, Ph.D. whose telephone number is (571) 272-0791. The examiner works a flexible schedule and can be reached by phone and voice mail. Alternatively, a request for a return telephone call may be emailed to cynthia.wilder@uspto.gov.

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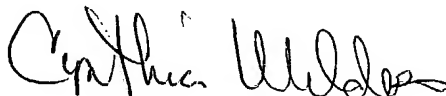
Since email communications may not be secure, it is suggested that information in such request be limited to name, phone number, and the best time to return the call.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Benzion can be reached on (571) 272-0782. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Patent applicants with problems or questions regarding electronic images that can be viewed in the Patent Application Information Retrieval system (PAIR) can now contact the USPTO's Patent Electronic Business Center (Patent EBC) for assistance. Representatives are available to answer your questions daily from 6 am to midnight (EST). The toll free number is (866) 217-9197. When calling please have your application serial or patent number, the type of document you are having an image problem with, the number of pages and the specific nature of the problem. The Patent Electronic Business Center will notify applicants of the resolution of the problem within 5-7 business days. Applicants can also check PAIR to confirm that the problem has been corrected. The USPTO's Patent Electronic Business Center is a complete service center supporting all patent business on the Internet. The USPTO's PAIR system provides Internet-based access to patent application status and history information. It also enables applicants to view the scanned images of their own application file folder(s) as well as general patent information available to the public.

For all other customer support, please call the USPTO Call Center (UCC) at 800-786-9199.



CYNTHIA WILDER
PATENT EXAMINER

12/17/04